



ADVICE TO ESMA

SMSG advice on draft regulatory technical standards (RTS) amending the PRIIPs Delegated Regulation

The Securities and Markets Stakeholder Group (SMSG) is grateful for the opportunity to provide ESMA with a response to the intended draft regulatory technical standards (RTS) amending the PRIIPs Delegated Regulation.

The SMSG wishes to reiterate that it has always been a strong supporter of the overall aim of the PRIIPs Regulation: It is the first “horizontal” EU set of investor protection rules that encompasses both traditional and insurance-based retail investment products and that aims at providing investors with an information document that enables them to understand and compare the key features and risks of a PRIIP (Regulation 1286/2014, Article 1).

As stated in our response (ESMA22-106-1591) to the interim targeted PRIIPs review (JC 2018 60) the SMSG reiterates its belief, however, that there are serious problems in the PRIIPs framework with at least the scope of the regulation, cost information about funds and performance scenarios, most of which need to be dealt with at level 1 and that an interim targeted review (quick fix) of the level 2 regulation is no substitute for the necessary review.

The SMSG therefore welcomes the recently published ESAs’ decision (Final Report, JC 2019 6.2) to not propose narrowly targeted amendments to the PRIIPs Delegated Regulation at this stage but to rather address the shortcomings that exist in the PRIIPs framework more thoroughly and based on consumer-testing. The SMSG will be ready to provide further advice to ESMA, when the ESAs will need to provide input in the context of the full review of the PRIIPs Delegated Regulation, according to the Final Report.

The SMSG understands that the draft RTS amendment now proposed by the ESAs would continue to allow PRIIP manufacturers that offer a range of options for investment (so-called Multi-Option Products or MOPs) to use the UCITS KIID for underlying options that are UCITS until the end of 2021.

While the SMSG recognizes that this is a positive step in light of the objective to continue to provide investors with qualitative information in a known format, the SMSG notes that this “quick-fix” is not improving the current situation for retail investors in light of the objective of allowing comparison between products. For two more years, retail investors will continue to receive two different pre-contractual information documents (the UCITS KIID and the PRIIPs KID) that are not comparable because – depending on the underlying option – the disclosure will continue to follow different formats and contents. The SMSG agrees with the assessment of the ESAs that there are challenges for retail investors to understand the interaction between the “generic KID” and the “specific information” for the underlying investment option, and to compare between different MOPs, in particular concerning the costs and that such challenges may arise from the disclosure of two types of pre-contractual information documents (the UCITS KIID and the PRIIPs KID) which can render difficult the comparability and aggregation at the level of the contract.

The SMSG nevertheless acknowledges that aligning the expiry date of Article 14 (2) of the PRIIPs RTS with the expiry date of the UCITS exemption is corollary. The SMSG moreover supports the ESAs in their assessment that it is relevant to examine more generally whether the approach in Article 10(b) is delivering an appropriate outcome for the retail investor and to assess whether regulatory changes would be necessary, or improvements can be made by providing additional guidance.

Adopted on 26 February 2019

[signed]

Veerle Colaert

Chair, Securities and Markets Stakeholder Group